

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MARCO TULIO TUY GUIT AND, ANIBAL  
JESUS BATEN LOPEZ *individually and on  
behalf of others similarly situated,*

Plaintiffs,

-against-

38 WATER & STREET INC. (d/b/a OBAO),  
KANRUTHAI MAKMUANG, and, LUCK  
WATANASUPARP,

*Defendants.*

Case No. 16-cv-7466

**REVISED STIPULATION TO  
AMEND**

IT IS HEREBY STIPULATED AND AGREED, by and between the parties in the above captioned action, that Paragraph 1 of the settlement agreement submitted to the Court on July 31, 2019 is revised to read as follows:

1. Payment: Defendants shall pay or cause to be paid to Plaintiffs, subject to the terms and conditions of this Agreement, and as full, complete, and final settlement and final satisfaction of any and all claims or potential claims Plaintiffs may have against Defendants through the Effective Date of this Agreement, including all counsel fees and costs incurred by Plaintiffs, the gross sum of Forty-Seven Thousand Five Hundred Dollars and No Cents (\$47,500.00) (the "Settlement Amount") to be paid to Plaintiffs' attorneys in an initial payment and Four ("4") installments, as follows:

The first payment will be Fifteen Thousand (\$15,000.00) for immediate deposit upon court approval of the settlement agreement, delivered to Plaintiffs' counsel and allocated as follows.

Marco Tulio Tuy Guit	\$5,744.10
Anibal Jesus Baten Lopez	\$4,193.80
Michael Faillace & Associates, attorneys' fees and costs	\$5,062.00

(a) Installment One: A post-dated check in the amount of Eight Thousand One Hundred Twenty-Five Dollars and No Cents (\$8,125.00) made payable to "Michael A. Faillace, Esq., as Attorney for Plaintiffs", for immediate deposit Thirty Days (30) after court approval of the settlement agreement, delivered to Plaintiffs' counsel, and allocated as follows:

Marco Tulio Tuy Guit	\$3,095.00
Anibal Jesus Baten Lopez	\$2,259.70
Michael Faillace & Associates,	\$2,770.30

attorneys' fees and costs	
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(b) Installment Two: A post-dated check in the amount of Eight Thousand One Hundred Twenty-Five Dollars and No Cents (\$8,125.00) made payable to "Michael A. Faillace, Esq., as Attorney for Plaintiffs", for immediate deposit Sixty Days (60) after court approval of the settlement agreement, delivered to Plaintiffs' counsel, and allocated as follows:

Marco Tulio Tuy Guit	\$3,095.00
Anibal Jesus Baten Lopez	\$2,259.70
Michael Faillace & Associates, attorneys' fees and costs	\$2,770.30

(c) Installment Three: A post-dated check in the amount of Eight Thousand One Hundred Twenty-Five Dollars and No Cents (\$8,125.00) made payable to "Michael A. Faillace, Esq., as Attorney for Plaintiffs", for immediate deposit Ninety Days (90) after court approval of the settlement agreement, delivered to Plaintiffs' counsel, , and allocated as follows:

Marco Tulio Tuy Guit	\$3,095.00
Anibal Jesus Baten Lopez	\$2,259.70
Michael Faillace & Associates, attorneys' fees and costs	\$2,770.30

(d) Installment Four: A post-dated check in the amount of Eight Thousand One Hundred Twenty-Five Dollars and No Cents (\$8,125.00) made payable to "Michael A. Faillace, Esq., as Attorney for Plaintiffs", for immediate deposit One Hundred Twenty Days (120) after court approval of the settlement agreement, delivered to Plaintiffs' counsel, and allocated as follows:

Marco Tulio Tuy Guit	\$3,095.00
Anibal Jesus Baten Lopez	\$2,259.70
Michael Faillace & Associates, attorneys' fees and costs	\$2,770.30

Within 30 days of this Agreement being approved by the Court, all of the post-dated checks/payments set forth above shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., 60 East 42nd Street, Suite 4510, New York, NY 10165. Failure to deliver said checks shall constitute a default under the Agreement.

(a). Concurrently with the execution of this Agreement, Defendants 38 Water & Street Inc. (d/b/a Obao), Kanruthai Makmuang, and, Luck Watanasuparp shall each execute and deliver to Plaintiffs' counsel confessions of judgment ("Confessions of Judgment") in the form annexed hereto as Exhibits respectively. The Parties hereby acknowledge and agree that the Confessions of Judgments will be held in escrow by Plaintiffs' hereby irrevocably and unconditionally release counsel, and will not be entered and/or filed at any time other than (i) in the event that the Defendants fail to make any of the installment payments as set forth above, i.e., one of the

postdated checks fails to clear Plaintiffs' counsel's escrow account, or Defendants fail to deliver the payments to Plaintiffs' counsel within five days of the Court approving the Agreement, and (ii) Defendants fail to cure such default within ten (10) business days of receipt of written notice (to be delivered to Defendants by first class mail via their counsel, Bingchen Li, Esq., at 39-07 Prince Street, Flushing, NY 11354. Any such Notice of Default shall be deemed received five (5) days after it is mailed.

Dated: August 19, 2019

MICHAEL FAILLACE & ASSOCIATES, P.C.

By: 

Michael Faillace, Esq.  
*Attorneys for Plaintiffs*  
60 East 42<sup>nd</sup> Street, Suite 4510  
New York, NY 10165  
(212) 317-1200

LAW OFFICE OF X TAN PLLC

By: 

Bingchen Li, Esq.  
*Attorneys for Defendants*  
39-07 Prince Street  
Flushing, NY 11354  
Tel: (212)-593-6188

SO ORDERED:

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HON. HENRY B. PITMAN